

Message Text

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ORIGIN EB-07

INFO OCT-01 EA-07 NEA-10 ISO-00 ERDA-05 AID-05 CEA-01
CIAE-00 COME-00 EPG-02 DODE-00 FEAE-00 FPC-01
H-01 INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01
PM-04 USIA-06 OES-07 SP-02 SS-15 STR-04 TRSE-00
ACDA-07 /106 R

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COMM/PTO - MKKIRK
COMMERCE - JLIGHTMAN
-----021319Z 093024 /45

R 021234Z MAY 77
FM SECSTATE WASHDC
TO AMEMBASSY TAIPEI
INFO AMEMBASSY BANGKOK
AMCONSUL HONG KONG
AMEMBASSY JAKARTA
AMEMBASSY KUALA LUMPUR
AMEMBASSY MANILA
AMEMBASSY NEW DELHI

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E.O. 11652: N/A

TAGS: ETRD, XB, TW

SUBJECT: COUNTERFEIT GAS REGULATORS

SUMMARY: EXXON/ESSO REPRESENTATIVES HENRY B. MITCHELL AND
VINCENT F. BICK, JR., CALLED UPON DEPARTMENT (EB/IFD/BP
AND EA/ROC) TO DISCUSS TAIWAN PRODUCTION AND EXPORT OF
COUNTERFEIT GAS REGULATORS. REGULATORS FOR ESSO ARE MANU-
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FACTURED BY KOSAN OF DENMARK WHICH HOLDS THE PATENT RIGHTS.
THE COUNTERFEIT REGULATORS BEAR BOTH THE ESSO AND KOSANGAS
TRADEMARK. THUS, THERE IS BOTH PATENT AND TRADEMARK
INFRINGEMENT, BUT WHILE ESSO IS CONCERNED ABOUT THE
INFRINGEMENT, ITS MAIN WORRY IS OVER SAFETY.

1. GAS REGULATORS ARE USED EXTENSIVELY IN THE FAR EAST TO

CONTROL THE FLOW OF LIQUIFIED GAS FROM CYLINDERS TO STOVES OR WATER HEATERS. FAULTY REGULATORS CAN CAUSE EXPLOSIONS AND FIRES. ESSO REGULATORS ARE MADE BY KOSAN A/S OF DENMARK. IN LATE 1975 AND 1976, COUNTERFEIT REGULATORS BEARING THE ESSO AND KOSANGAS (AND SHELL) TRADEMARKS BEGAN TO APPEAR IN SINGAPORE, WHICH ALSO SERVES AS A RE-EXPORT POINT FOR MALAYSIA, THE PHILIPPINES, THAILAND, INDONESIA, HONG KONG AND INDIA. IT IS QUITE DIFFICULT TO DISTINGUISH THE COUNTERFEIT REGULATORS FROM THE GENUINE ARTICLE. LEGAL ACTION WAS TAKEN ON GROUNDS OF INFRINGEMENT BUT

ESSO REPS STATED THAT TRACKING DOWN AND PROSECUTING IMPORTERS HAS BEEN QUITE DIFFICULT BECAUSE NEW ONES APPEAR TO REPLACE THOSE CLOSED DOWN.

2. EXTENSIVE TESTING BY EXXON HAS SHOWN THAT THE REGULATORS ARE FAULTY IN MANY RESPECTS AND DO NOT EVEN COMPLY WITH MINIMAL SAFETY STANDARDS SET BY THE TAIWAN GOVERNMENT. AS TIME GOES BY, THE POTENTIAL OF ONE OF THESE REGULATORS FAILING WILL INCREASE POSSIBLY CAUSING FIRE AND LOSS OF LIFE.

3. SHELL, EXXON, AND KOSAN HAVE TAKEN THE FOLLOWING ACTION THUS FAR. IN TAIWAN, KOSAN OPPOSED AND WON AN

OPPOSITION TO REGISTER ITS TRADEMARK. A PROTEST LETTER WAS SENT TO PRINCIPAL COUNTERFEITERS, WITH NO RESULTS. AN APPEAL WAS MADE TO THE BOARD OF FOREIGN TRADE WHICH TOOK NO ACTION. IN SINGAPORE, DEALERS HAVE BEEN WARNED LIMITED OFFICIAL USE

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ABOUT THE DANGERS OF THE COUNTERFEIT REGULATORS, A PATENT INJUNCTION WAS OBTAINED AGAINST TWO IMPORTERS, POLICE SEIZED COUNTERFEITS AND ARRESTED THREE EMPLOYEES OF ONE IMPORTER, THE PRICE OF GENUINE REGULATOR WAS LOWERED, AND AN ATTEMPT IS BEING MADE TO REPLACE COUNTERFEITS WITH GENUINE REGULATORS AT NO CHARGE TO CONSUMER. IN MALAYSIA, A PATENT INFRINGEMENT SUIT HAS BEEN BROUGHT AGAINST AN IMPORTER. ESSO'S MAJOR DIFFICULTY IS THE LACK OF ADEQUATE LEGAL REMEDIES IN TAIWAN, WHERE A PATENT SUIT IS TIME-CONSUMING AND PENALTY MINIMAL (\$50-\$100 FINE).

4. COPIES OF MATERIAL PROVIDED BY ESSO, INCLUDING PHOTOS OF GENUINE AND COUNTERFEIT REGULATORS, WERE POUCHED TO MR. KYLE MAY 2.

5. WE EXPLAINED TO ESSO THAT WE WOULD SEEK THE EMBASSY'S VIEWS, BUT THAT IT WAS OUR IMPRESSION THAT A DIRECT GOVERNMENT-TO-GOVERNMENT APPROACH WAS DESIRABLE.

6. THE EMBASSY IS REQUESTED TO APPROACH THE ROC GOVERNMENT AT THE APPROPRIATE LEVEL, SEEKING GROC ACTION TO STOP EXPORT AND PRODUCTION OF THE COUNTERFEIT REGULATORS. ESSO IS PREPARED TO SEND ITS SAFETY EXPERT AND SPECIMENS OF THE COUNTERFEIT AND AUTHENTIC REGULATORS IF THE EMBASSY WISHES; HE WOULD BE PREPARED TO ACCOMPANY EMBOFFS ON THEIR APPROACH TO GROC, IF APPROPRIATE. AN ACCEPTABLE SECOND BEST SOLUTION WOULD BE TO FORCE THE COUNTERFEITERS TO SELL UNDER THEIR OWN TRADEMARK WHICH WOULD EFFECTIVELY STOP THEIR SALES. EMBASSY MAY WISH TO CONSULT WITH ESSO'S ATTORNEY, LEE AND LI. WE ARE TOLD THAT FRANK WANG,

A PROMINENT AND INFLUENTIAL MEMBER OF THAT FIRM, HAS BEEN DEALING WITH THE PROBLEM AND THAT HE SHOULD HAVE MORE BACKGROUND INFORMATION.

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7. PLEASE ADVISE.
VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
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Control Number: n/a
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Sent Date: 02-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
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Disposition Action: RELEASED
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Disposition Case Number: n/a
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Subject: COUNTERFEIT GAS REGULATORS SUMMARY: EXXON/ESSO REPRESENTATIVES HENRY B. MITCHELL AND VINCENT F. BICK, JR., CALLED UPON DEPARTMENT (EB/I)
TAGS: ETRD, ENRG, XB, TW, EXXON/ESSO, (MITCHELL, HENRY B), (BICK, VINCENT F JR)
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